

BAR BULLETIN

PUBLISHED BY THE LOS ANGELES BAR ASSOCIATION

LEADING ARTICLES



Partisan Judicial Candidates . . .

Shall The Bar Advertise? . . .

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Review of Legal Education . . .

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Vol. 13

AUGUST, 1938

No. 12

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BAR BULLETIN

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NO. 12

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PARTISAN POLITICS AND JUDICIAL ELECTIONS

A DETERMINED effort has been made to inject partisan politics into the approaching judicial election. This is not only contrary to the spirit and letter of our laws making judicial elections nonpartisan, but also contrary to the repeated and forceful declarations of the Los Angeles Bar Association upon the matter.

One of the County central committees has endorsed a ticket of judges of its political faith. The list of candidates thus endorsed, with the exception of one or two who are unopposed for re-election, were not endorsed by the Bench and Bar of this County in the recent plebiscite. Lacking the endorsement of the Bench and Bar as to their fitness for judicial office, they are now boldly asking preferment by the voters upon the basis of their party affiliations. Numerous meetings are being addressed by these candidates along the lines above indicated.

The Los Angeles Bar Association calls upon the Bench and Bar of this County and upon all persons who desire their judges selected upon a basis of merit rather than political affiliation, to oppose vigorously these attempts to inject partisan politics into a judicial election. All lawyers should grasp every opportunity to urge the selection of those candidates who have received the endorsement, through the plebiscite, of the Bench and Bar of this County. But beyond that, we should seek opportunities to advise the voting public to lay aside partisan politics in the selection of judges, and to vote solely upon the basis of the qualifications of the various candidates involved.

FRANK B. BELCHER,
President of the Los Angeles Bar Association.

SHALL THE BAR ADVERTISE?

TRADITION and precedent have long deterred the legal profession from resorting to any of the ordinary forms of publicity to acquaint the public with its true functions.

The bar has endured, almost without protest, the common public habit of disparaging lawyers, the law, and law enforcement. It has made little effort to answer public criticism, or combat public prejudices, however unmerited it might be. It is probably the only profession that has made practically no concessions to the idea of collectively advertising its activities and its public services.

There are many members of the bar who, of course, will oppose all forms of professional publicity, collectively or otherwise, and who feel that the bar should ignore public misrepresentation and misunderstanding, rather than embark upon new and untried expedients.

But everywhere around us there is discernible a restive demand of the lay public for a more speedy conclusion of matters at law, and simplification of legal procedure. As an outgrowth of this impatience of old forms in a changing age, there has been a startling increase of boards, commissions, arbitration, and like quasi-judicial bodies, many of them open to the appearance of lay representatives untrained in the law, unrestricted by any rules of evidence, and fretful of delays.

For the existing situation the bar finds itself, in respect of public criticism and loss of public esteem and prestige, it is largely to blame. It has failed to do little else than to discuss its problems within its own councils. Certainly, it has failed to do the very obvious and necessary things to remedy a situation that has been permitted to exist for a long time. It is not surprising, therefore, that there should be a woeful lack of public understanding of the true functions of the bar, its obligations to the public, and its persistent and unselfish efforts to improve the administration of justice.

Happily, a great change is taking place in the bar's attitude toward its problems. It is becoming articulate in its own behalf. For the first time it is showing a definite resolve to act collectively; to present a common front in attacking its difficulties, and to assume its full duty and responsibility to the public.

The State Bar of California, which, of all the integrated state bars, has attracted the most attention in other states, is prepared to take the lead in the movement now stirring the organized bar throughout the country. It is the first to adopt a definite plan to publicize its work on behalf of its members, and to offer its full cooperation to other agencies striving to improve and bring about certain reforms in the administration of justice.

The Board of Governors has established a Public Relations department, based upon the plan submitted by its Committee on Public Relations. This step was taken only after mature consideration of the subject. More than six years ago the then President appointed a committee and instructed it to make

a study of public relations work as applied to bar problems, and submit its report to the Board. That committee recommended the creation of a Public Relations department, but no action was ever taken to adopt its recommendations.

In March of this year President Gilford G. Rowland appointed a special committee of eleven members, representing various sections of the state, with instructions to formulate and submit a public relations plan. The membership of the committee has been published in *The State Bar Journal*. The committee held two meetings, one at San Francisco, in April, and the other at Santa Barbara, in May. It gathered data on the subject from the bar in other states and submitted its report to the Board of Governors in June. It recommended that a department of Public Relations be established as part of the State Bar work, with well defined functions and objectives. The Board approved the report, substantially as presented, and set up the department.

The department is now functioning on a limited scale, with a limited allowance for expenses. For the present, Mr. Claude Minard, secretary of the State Bar, is acting as head of the department. The supervision of the work, under the plan adopted by the Board, rests upon an Executive Committee of five, three from Southern, and two from Northern California, comprising the following members: Earle M. Daniels, Herbert Freston and Ewell D. Moore, of Los Angeles; Francis V. Keesling, of San Francisco, and William S. Wells, Jr., of Oakland. Mr. Moore was named chairman. The Board of Governors will always be represented by one member on the Executive Committee.

ADVISORY COMMITTEE

In addition to the Executive Committee, the President appointed an Advisory Committee of eleven, as follows: Arthur W. Hill, Jr., Eureka, District No. 1; Albert E. Sheets, Sacramento, District No. 2; Francis C. Damrell, Modesto, District No. 5; Harrison J. Ryon, Santa Barbara, District No. 6; Arnold Praeger, Los Angeles, and Herbert L. Hahn, Pasadena, District No. 7; Jesse Olney, San Bernardino, M. B. Wellington, Santa Ana, District No. 8, and Ralph W. Wallace, San Diego, District No. 9.

Inasmuch as there will come before the Pasadena convention, in September, a number of important questions affecting the Public Relations department and its functions, as well as certain recommendations of the Executive Committee designed to enable the work to go forward, it is proper that all members of the State Bar be acquainted with the scope and detail of the plan, and the arguments in its favor.

When President Rowland announced the appointment of the Committee of Eleven to formulate the plan, he made this statement:

"There is no single problem of the bar which is receiving more attention than that of public relations."

The force of that statement is fully confirmed by the investigations of the committee, and by the action along similar lines by most of the large bar associations of other states. The committee ascertained that, although the subject

of Public Relations is agitating the bar everywhere, there had been no final action taken anywhere to provide for a permanent department, adequately financed to carry out a definite plan. It is true that a few associations in other states have committees functioning; some have provided limited funds to further their investigations, and at least two have actually completed a series of newspaper advertisements. But the Board of Governors of the State Bar of California, appears to be the first bar-governing body to set up a special department with well-defined objectives and actually to begin the work.

The main problems of the bar, as the Committee of Eleven saw them, and briefly outlined to the Board, are: Gross public misunderstanding of the activities and functions of the legal profession, resulting in prejudiced and uninformed public criticism of bar and bench; growing disregard for the dignity of courts, and general condemnation of both as utterly incapable or unwilling to "bring the administration of justice in line with the needs of the Twentieth Century," and an increasing misrepresentation of the lawyer as one who does not merit public trust.

Perhaps some of the criticisms of the bar are measurably true; but the committee believed that the legal profession has been too apathetic; that the organized bar has failed to keep the public advised of its continuing efforts to improve the administration of justice for the benefit of the public; that it does, in fact, to a large degree, appreciate and accept its full responsibilities to the public, and that it is earnestly striving to bring about reforms to the expeditious enforcement of public and private rights, in keeping with the changing times; that it is determined to see that those enjoying a license to practice law and represent the public at the bar shall deal honorably and honestly in all matters; and that it is firm in its purpose to uphold the dignity of our courts and preserve our institutions.

The Committee gave earnest consideration of these matters. It concluded that the time has come for the bar to take the public into its confidence on matters of public concern; to convince the public, by all proper and ethical means at hand, that the organized bar is now doing many of the very things which it is being charged with ignoring; that it does in fact, recognize its public duty and responsibility, and that it is ceaselessly endeavoring to bring about procedural reforms for the public's benefit, which the public demands.

The Committee also considered, with full understanding and sympathetic appreciation, the problems affecting the business of the lawyer; the ever increasing effects of operations of administrative bureaux and commissions; the practice of law by unauthorized persons and corporations, and many other abuses that arise, perhaps naturally, from the complexity of modern business life. Nevertheless, it was of the opinion that its Public Relations campaign should be designed primarily to the publicizing of the bar's constructive activities in the matters of public interest, and its cooperation with organizations whose efforts are similarly directed.

PLAN AND OBJECTIVES

The plan outlined to the Board of Governors in the Committee's report, and which was approved substantially as submitted, is presented here, but necessarily in abbreviated form. The general objectives are:

To bring about a better understanding by the public of the (a) training, (b) duties, (c) responsibilities to the public, and (d) the activities of the bar in general and its organized associations. Under this brief statement of purposes, we believe, will fall most of the problems of the legal profession.

While these objectives are stated in general terms, the means to be employed are more definite, and follow along the accepted lines of such campaigns conducted by other professions and institutions, that is: spot news, news articles, radio programs, public addresses, all on an organized basis and with proper supervision.

More specifically, the main objectives, in the order of their importance in the committee's opinion are:

1. *Assisting in coordinating the work of the State Bar and all local bar associations.*

It is believed that the entire membership of the State Bar should be kept fully informed of the current activities, aims, problems and undertakings of the organization. This will make for better understanding, and result in a more cohesive bar. Certainly it will be the means of minimizing criticism largely due to lack of information concerning matters of vital interest to members.

2. *Enlistment of general support from the bar and the public in the legislative program of the State Bar.*

The Public Relations department should prove most helpful in this work, by intelligent use of proper publicity; by contact with local bar associations and civic organizations; by making known to the public that the bar's efforts to improve the administration of justice, by proper legislation, is in its interest. The committee believes that the vast work of the Committee on the Administration of Justice to accomplish procedural reforms, has sometimes been nullified because of the lack of information and support of the bar generally, and public misunderstanding of the purpose of legislation advocated by the bar.

3. *Publicizing activities of the bar regarding unlawful practice of the law.*

The committee is of the opinion that the State Bar membership should be informed, from month to month, of the aggressive action of the bar everywhere to curb the practice of law by unauthorized persons and corporations, through the *State Bar Journal*, particularly. There is tremendous interest in this phase of organized bar work, and in the action of the courts in this and other jurisdictions, upon cases brought to them by the bar. Moreover, the public should be informed of the fact that, in curbing unlawful practice the bar is rendering a public service.

4. *Assisting in the development of the means of furthering the relationship of the bar to newly admitted lawyers.*

The State Bar should, we believe, manifest an active interest in newly admitted practitioners. It should promptly inform them of their individual responsibilities to the public and to the bar; enlist their active participation in local bar work, as well as that of the State Bar, to the end that they may develop a strong bar morale at the beginning of their professional careers.

The writer personally believes the State Bar should go farther and seriously consider means and methods of placing newly admitted members in industry and business. Obviously the overcrowded profession here and everywhere else, makes it difficult if not impossible, for many of those coming into the

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profession from year to year, to maintain a reasonable standard of living in law practice. Hence, the dangers of economic pressure leading to unethical conduct, with resulting disadvantage to the public and prejudice to the bar.

5. *Creation of a method of informing students in secondary schools (a) as to the true meaning of the profession of law and the requirements necessary to fit them for such a career; and (b) the relation of the profession as to the administration of justice.*

The State Department of Education has requested the State Bar to assist in these objectives. A committee of the State Bar has been working for several years on the preparation of a Manual on the Administration of Justice, for use in the high schools of the State. The course of study based upon this manual can be supplemented by a series of addresses, to be delivered by carefully chosen lawyers in the different counties, under the supervision of the Public Relations Department.

6. *Publicizing the results of the disciplinary work of the State Bar.*

It is proper to say that some members of the committee do not approve of any special effort to publicize these matters; others do. It is largely a matter of policy as determined by the Board. The chairman believes that disciplinary action should be made known to the public as well as to members of the bar.

7. *Publicizing the reasons, from the standpoint of the public as well as the bar, against permitting corporations to practice law.*

The need for this sort of publicity is obvious. It is noted that practically every large bar publication stresses action taken, by suit or otherwise, to curb unlawful practice. The American Bar Association especially is prompt to follow up and report the result of every suit filed, by means of a monthly publication devoted entirely to the subject of unlawful practice. We believe the members of the California bar should be fully informed of these matters, through the Public Relations Department and the State Bar Journal.

8. *Publicizing the work done by the State Bar in annotating the restatement of the law.*

Members of the bar know little or nothing of this work at the present time. It seems desirable that they should be kept informed concerning this important function.

There are several objectives named in the committee's report that will come under the proper functions of the Public Relations Department, and which will be discussed in subsequent reports.

SHOULD THE BAR ADVERTISE?

I come now to a discussion of the most controversial subject considered by the Committee. Bar group advertising is a matter receiving the earnest attention of practically every large local association in the country, and some state organizations. Our committee considered it at great length but made no recommendation, largely, perhaps, because it did not have sufficient information on which to base a conclusion, but mainly because we believed that bar members should be given such data as had been gathered by the committee, in order that there might be a wider understanding of the problem. Perhaps the strongest reason against making a definite recommendation in favor of bar group advertising, was the cost factor of such an undertaking. Then, too, there was

the question of ethics to be considered, for many members of the bar regard any form of advertising, group or otherwise, as unethical.

In the course of the Committee's investigation it was ascertained that at least two bar associations, Atlanta, Ga., and St. Petersburg, Fla., had carried out a series of advertisements in their local newspapers. The cost was paid from voluntary subscriptions by members. As to the effect of such advertising, other than apparent press approval, the committee was able to obtain very little information. It did learn, however, that as a result of the advertising by those associations, they had been requested by a very large number of other bar organizations throughout the country to furnish them with full details of their plans and methods.

In New York City, it was learned, the two large bar groups have jointly created a Committee on Public Relations, provided a considerable fund to make a thorough investigation of bar group advertising, and to make a report on the subject. The Philadelphia Bar Association has appointed a similar committee for the same purpose, and has inquired of this committee the extent of its activities. In Chicago and Detroit, and in some of the State Bar associations, like investigations are under way by committees. In a few places permanent committees have been named to conduct activities along the lines already adopted by the State Bar of California.

There can be no denial of the fact that bar group publicity is receiving wide attention. It is discussed in most of the bar publications throughout the country. There is a growing sentiment in its favor. Whether it will take the form of paid advertising, or be confined to proper publicity in other channels, cannot yet be determined. Our own Committee will continue its investigations and present a later report on the subject.

At a meeting of the Executive Committee of Five, appointed by the President to supervise and carry out the plan adopted by the Board of Governors, held at San Francisco in July, a resolution was passed, recommending to the Board that the dues of active members of the State Bar be increased \$2.50 a year, all moneys received therefrom to be earmarked and used solely for Public Relations work, and that a plebiscite of the members of the State Bar be taken on the question whether such increase should be adopted.

The Board has not approved of the suggestion of the Committee, and the matter probably will be discussed at the convention at Pasadena, in September.

The Executive Committee realizes that there will be a lot of discussion and some opposition to this proposal, but it believes that if the membership generally approves of the Public Relations program, it will understand that, if it is to be made effective, it must have funds enough made available to continue the campaign over a period of time. It cannot be expected that public prejudice, slowly developed over a long period of time, may be overcome in a few short months, or even years. The work should be made a permanent part of the bar's program, from year to year. This requires organization, systematic supervision, and experienced personnel.

It seems to me that the time has arrived when the bar should challenge unjust public criticism, not by controversial combat, but by objective action.

The State Bar has provided the machinery; will the members support the plan? We believe they will. Your bar organization,—any bar association—is alive only as you give it life and effectiveness. It should let the public know that it stands ready to cooperate with all agencies for the betterment of the administration of justice; that it will receive and consider all complaints; strive to bring about the reforms for which there is public demand; endeavor to give full recognition to the fact that the stability, and even the safety of free institutions depends largely upon the activity and the prestige, of the independent institutions in which the people have confidence.

As a distinguished member of the legal profession has so aptly said: "Our lawyers have come to realize only in recent years that their bar associations should exist and function for something more than social and scholarly purposes."



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THE ANNUAL REVIEW OF LEGAL EDUCATION FOR 1937

NO achievement of the bar associations of the United States is superior to the progress which they have been able to accomplish since the World War in the field of admissions to the bar. The success of this movement is forcefully brought out in the *Annual Review of Legal Education* which has been recently published by the American Bar Association. Many lawyers do not realize that it is only within the last decade that most of our states have made any requirements for bar admission beyond "a high school education or its equivalent." However, the *Annual Review* shows that there are now 36 states (we are informed that since its publication Tennessee and the District of Columbia should be added to the list) which require a minimum of two years of college education for admission to the bar. In 1921 when the American Bar Association standards were adopted, Kansas was the only state having such a requirement and even as recently as 1930 only 13 states could be so listed.

Another unperceived development which has taken place is also revealed by the *Review*. At the present time there are some twenty states which, with a few local exceptions, will not recognize schools which do not have the approval of the American Bar Association. The 98 approved schools now have about two-thirds of the entire number of law students in the country but it is very evident that there is no general realization of the fact that there are 87 schools, graduates of which are not regarded in a score of jurisdictions as having a legal education which is satisfactory enough to permit them to even take the bar examinations.

Law school enrollment as shown by the *Review* has decreased approximately two percent to a total of 39,255. This decrease has as yet had no effect on the total number of new admissions to the bar which increased 300 in 1937 to 8,934.

In addition to very complete information in reference to admission requirements in every state and characteristics of the various law schools, the *Review* contains three interesting articles. One concerning the relationship between legal education and bar examinations by Dean Herschel W. Arant of Ohio State University Law School, President of the Association of American Law Schools, points out what the objective of bar examinations should be and refers to the wide difference in law schools. Judge Otis, United States District Judge and President of the Kansas City Law School, writes concerning the evening school, of which he says,

"It is difficult but not impossible for an evening law school to comply with the reasonable requirements of the American Bar Association. It could not, of course, comply with a requirement that its students should not engage in remunerative labor. It could not comply with a requirement that it should not have classes after five o'clock in the afternoon. No such requirements have been made and they ought never to be made in the United States. But the reasonable requirements that have been made can be complied with. And here again I speak, not in academic fashion, but out of my own experience."

John Kirkland Clark, Chairman of the New York Board of Law Examiners, points out the excellent results which have been obtained through co-operative efforts by the bar, the law schools and the bar examiners working together through a joint committee or conference in each state. Copies of the *Review* will be furnished without charge upon request to the headquarters of the American Bar Association.

INTERNSHIP FOR NEW LAWYERS

By Thomas R. Suttner, of the Los Angeles Bar; a Member of the Junior Barristers.

IN the March issue of the *State Bar Journal*, Mr. Eustace Cullinan has outlined the recommendations of the State Bar for a system of instructing young lawyers in the "arts and skills" of practice, including internship and formal instruction. No mention is made of the "arts and wiles."

At the conclusion of his article Mr. Cullinan quoted Mark Twain to the effect that a few words from the bug (meaning the young lawyer) might be quite a help. The purpose of this article is to supply a few words from one of said "bugs," although the writer is not quite sure whether, after four years at the bar, he is still a bug or whether, as the result of a slight hardening of the shell, he now qualifies as a beetle.

There has been quite a deal of fuss and bother about the young lawyer of late and one sometimes wonders whether it is worth it. From a purely immediate social aspect it would seem that what the public needs is not so much an internship for the young lawyer as a thorough system of compulsory post-graduate training for the older lawyers. The hideous mistakes of the older practitioners are embalmed thrice weekly in our advance sheets. It may be well to invent a scheme for providing experience for the young man, and it will always be a truism that there is no substitute for experience, but it would appear just as well to invent a system for teaching our older, experienced friends the technique of their profession.

That, however, is not the question before the house. Probably it is not the question solely because Mr. Cullinan and the members of the Committee on Adjective Law recognize the futility of such an attempt, and realize that if American law practice is to become a profession, and peopled with men who are capable of distinguishing between law as a profession and law as a clumsy racket, the impetus must come from below. "Catch 'em young and train them" is as applicable to the raising of the Bar standards as it is in any foreign dictatorship. Hence, while the present public would best be served by an uplift in the ranks of those who now handle its legal business, the public of 1960 may conceivably benefit by a program such as is now contemplated.

TWO CLASSES

The suggestion of an internship is most interesting and thought provoking. Roughly speaking, there are two types of successful Bar candidates. One is composed of the self-opinionated type which knows all the answers, and the other, fortunately larger, is formed of young men whose very conscientiousness begets bewilderment. It must be assumed that the latter type would furnish the more fertile soil for the voluntary internship and would be the more willing to undertake the experiment. The former type learns only by the process of having its collective ears firmly boxed by our less subtle Superior Court judges.

Mr. Cullinan has already pointed out that personal financial conditions will play an important part in a student's choice. It would seem, however, that if

the internship becomes of proven value the six months or so spent in it would not be an overly serious burden. A student who has already spent at least three years in academic training and three months preparing for the Bar examination should not complain too much of an added six months. After all, our brothers in the medical profession spend more years in academic training and at least one year in compulsory internship. Of course, board and room is furnished the medical internes by the hospitals in which they train but starvation is nothing new to the law student.

The two month gap between Bar examination and announcement of the results might well be utilized as a part of the training time. The two-thirds who fail could be eliminated upon announcement of the results. Hence, not more than four months of the six month period (assuming such a period is adopted) would be time ordinarily allotted to practice.

The time element is therefore a negligible objection. The real problem is how to conduct the training. Mr. Cullinan's suggestion that a few practitioners would be willing to act gratis as supervisors in their respective counties or that busy practitioners would from time to time take fledglings into their offices as special assistants is a pretty thought but impractical. The writer has watched the placement committees of various law schools at work (or not at work!) and is not at all optimistic of any plan which calls for voluntary gratis assistance from the established Bar.



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COOPERATIVE EFFORT

As a suggestion, the following is offered: The internship should be undertaken by cooperative effort of the law schools. It should not be spread to every county seat but should be confined to centralized locations. A training school in San Francisco and another in Los Angeles should be sufficient. Clinical material could be drawn in part from the Legal Aid plans already in operation and other portions of the curriculum could be supplied in part by observation of cases actually on trial in the courts and in part by what would be labelled "dummy scrimmage" on the football field.

A few examples would perhaps present a clearer picture. First, the curriculum. We are told the object is to furnish "training in actual practice." now it must be assumed that this does not mean *actual* practice but rather *observation* of practice or a going thru of the motions of practice. A medical interne, perhaps, does not perform surgery but he is afforded opportunity to observe major operations and perhaps to assist in a minor capacity. It is apparently proper for a doctor to solicit free patients but in law the same thing savors of maintenance, and the Bar might complain of a diversion of clients.

The American Medical Association requires hospitals to rotate their internes thru the various hospital departments so as to furnish a well-rounded training. The Law Internship will strive toward the same end. Hence, our curriculum should include at least the following: Drafting, pleading, observation of personal injury and other trial work, use of the provisional remedies, proceedings after judgment, equity practice, appellate procedure, and briefing. Perhaps the more luxurious fields, such as corporation and tax work, could be included later.

There is no problem in teaching drafting. Stanford has had an "Office Practice" course for years which has proven a marked success, under Professor Brenner, in teaching the drafting of business instruments.

PLEADING

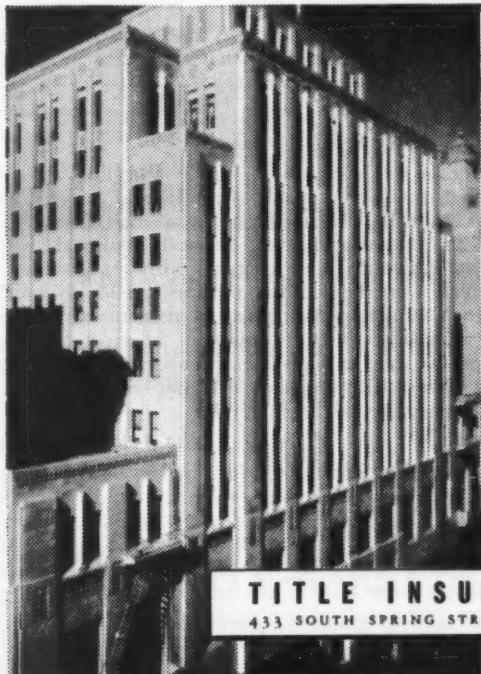
Pleading is more difficult. All of us have studied Code Pleading in law school but it would be a safe wager that the same helpless feeling has settled on the shoulders of every one of us when he commenced that first complaint or that first answer. And yet the training school, if well equipped with copies of pleadings drawn from actual court files, coupled with an instructor capable of explaining the facts which were behind the phrases, could do much to relieve that helpless feeling. Incidentally, pleading is the field in which the craftsmanship (not to say the grammar!) of the profession is most lacking. Nothing impresses the opponent more than a well-drawn paper, nothing stirs his conscience more than a sloppy one. The internes certainly should be required to draw many pleadings, whether actual or fanciful.

Appellate practice and procedure, being mainly paper work, come next. A change in the court rules could require sufficient extra copies of the briefs filed to furnish the clinical material. Given an opening brief, the student would be given three or four days (actual practice should include a realistic concept of the actual times spent on these things!) to write a respondent's brief. Later comparison with the brief actually written by the litigant's counsel should be most interesting. This example is only one of the many possibilities suggested by appellate practice. The law school will have already furnished the student with a study of time limits and the nature of appealable orders—the writing of the brief is the place where the craftsmanship must be taught. Here the interne will learn research and briefing under actual working conditions. This type of

training alone should remove some of the ill-founded prejudices of practitioners against recent graduates (as mentioned by Mr. Cullinan) and as such increase the interne's opportunity for entering a paying job.

TRIAL PRACTICE

Training in trial practice is the most difficult problem. Assuming that the Bar would not object to the training school taking over the limited opportunities furnished by the indigent litigant, there would still be a paucity of practice material. Certainly the interne should be taught the rudiments of preparation and courtroom presentation but it is to be feared that the training school will not afford him much opportunity to sharpen his teeth on actual contested cases. Mock trials would be a fair substitute but the mock trial does not contain the surprises and the heated pressure of a true courtroom battle. It is suggested that, because the training schools would be located in San Francisco and Los Angeles where many cases go to trial each day, a survey of the court calendar be constantly made to determine the more important cases on trial. Selected groups of students could review the court files before each case, read the pleadings and depositions on file, and possibly consult a few minutes with the lawyer for one side or the other to ascertain the matters which he anticipates will play an important part in the trial. Most lawyers would be flattered at such interest in their case, if not bothered too much and if not requested to reveal confidential matters. This type of observation would be more intelligent than



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the customary "dropping in" on trials and would be very beneficial. The writer can vouch for the statement that the young lawyer who enters a large office audits very few trials.

A fancier aid would be the use of sound recordings of actual trials. These could be used over and over again in connection with a study of copies of pleadings and depositions.

Law and motion work might be taken up in connection with the study of pleading but Judge Kenny would probably say that the young fellows are better at it than the windy old-timers, anyway.

The provisional remedies and proceedings after judgment, while they hint at collection work, are necessary points of study but easily taught. Observation of the workings of clerk's, sheriff's and marshal's offices in conjunction with preparation of the necessary papers should give the new lawyer a comprehensive picture and a fair working knowledge.

TRAINING SCHOOLS

The advantages of locating the training schools in San Francisco and Los Angeles would be best illustrated in the study of equity practice, for each city affords the opportunity of observing local chancellors at work in the "orders to show cause" departments. This would not be true in the smaller counties where injunction suits are comparatively rare.

No doubt other fields of practice could be readily suggested but the foregoing appear to be the main civil subjects in which the new practitioner would welcome instruction. No mention has been made of criminal procedure because the writer is entirely unfamiliar with that branch of the law. Undoubtedly, it should be included, for all lawyers should know at least the rudiments of criminal procedure even though they intend never to take a criminal case. The writer recognizes his own lack of familiarity with the subject as one of the deficiencies in his own training.

The suggestion that this work be undertaken as a cooperative venture of the law schools is made simply because an adequate training course would not be play but real work and the instructors in the law schools would better know how to organize a course of real study. Of course, the penchant of the law schools to be academic rather than practical would have to be overcome but this is a problem of adaptation more than anything else. There seems to be no adequate reason why Stanford and California could not unite in forming the northern training school and Loyola and the University of Southern California the southern. Since the course is to be voluntary the schools would be in a better position to know which of their graduates would be the most in need of this type of training and use their influence accordingly.

The scheme would require financial backing. The logical source of this is, of course, the State Bar, for it will be the Bar generally which will benefit by the proposed internship. If the standards of the Bar can be raised in this fashion the Bar by all means should stand the cost.

It is hoped that this article will stimulate the discussion which the subject deserves. Comments on plans in vogue or contemplated in other states and a discussion of the possibilities afforded by an apprenticeship system such as is followed in England and Scotland would probably be most interesting.

While this article is controversial, it is hoped that the necessarily dogmatic statements will offend no one.

ANNOUNCING

BAR BULLETIN

LEGAL ESSAY CONTEST

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For best legal essays on topics of current interest to the profession by members of the Junior Barristers of the Los Angeles Bar Association published in the BAR BULLETIN during the period from August 1, 1938, to June 1, 1939.

Full details as to the contest will be published in the September BAR BULLETIN.

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FIRST DELEGATES OF JUNIOR BARRISTERS ATTEND A. B. A. CONVENTION

DURING the course of the Tenth Anniversary celebration of the Junior Barristers last spring, Chairman W. Joseph McFarland announced that the Junior Bar Conference of the American Bar Association had notified the local Junior Group of its acceptance as an affiliate member of the national organization, and that as an affiliate, the Junior Barristers would be entitled to send two delegates to the American Bar Convention in Cleveland during July. Thereafter, Calvin Helgoe and Harold W. Schweitzer were elected to serve as the Junior Barristers' first delegates to the A. B. A. Convention. The two Los Angeles delegates attended the convention along with some two hundred other attorneys under the age of 37 from every State in the Union.

The Los Angeles delegates presented to the Resolutions Committee a resolution suggesting that the Junior Bar Conference adopt as part of its national speaking activities the Juvenile Crime Prevention Program of the Los Angeles Bar Association. The resolution was adopted, and at the same time the Junior Barristers were highly commended for their great activity in this field throughout the past several years. The program will now be under the supervision of Milford Springer, a former Junior Barrister, and now a member of the Washington, D. C. Bar.

The Los Angeles delegates were called upon to discuss some of our local activities, and in return heard discussions of the local activities in other parts of the country. In Illinois, the Junior Bar assists each Law School during the school years in arranging a series of programs on practical legal subjects, and to make the connection closer, each law school student body is organized into a "bar association" and each "bar association" is made an affiliate unit of the State Bar of Illinois. This type of organization was designed to bring the law student closer to the actual practitioner and to the active bar associations. In Missouri, the Junior Bar group is attempting to reach every student prior to law school and to discuss with each student fully the practice of the law and some of the problems that it presents, thereby attempting to discourage the study of the law by individuals lacking the necessary qualifications and interests.

Ronald J. Foulis, of St. Louis, was elected as chairman of the Junior Bar Conference for the coming year, and as a member of the Executive Council for the Ninth Judicial Circuit, Harold W. Schweitzer was selected.

The Junior Bar Conference of the American Bar Association will hold its next annual convention in conjunction with the Senior Association at San Francisco during the week commencing July 10, 1939. It appears at the present time that the Junior Barristers of Los Angeles will be called upon to assist the Barristers' Club of the Bar Association of San Francisco as hosts for the National Convention, and will present an additional opportunity to extend the national recognition already gained by the Junior Barristers of Los Angeles.

COURT ROOM PICTURES

MANY letters have come to the Los Angeles Bar Association commending the statement of President Frank B. Belcher, which appeared in BAR BULLETIN for June, concerning newspaper criticism of the Association's position on the taking of pictures during court proceedings. Several thousand copies of the President's statement were mailed to bar associations and individuals throughout the United States.

Past President Vanderbilt of the American Bar Association, to whom was sent the BULLETIN containing correspondence with Chief Justice Crane, member of the Judicial Council of New York, on courtroom pictures, writes:

"I appreciate very much your thoughtfulness in sending me with your letter of July 22, a copy of your correspondence with Chief Justice Crane of New York. I hope the Empire State will follow your example."

Rev. Edward J. Whalen, S. J., former President of Santa Clara University and President of Loyola High School of Los Angeles, writes to Mr. George M. Breslin, member of the Board of Trustees:

"One of the most disgraceful things, to my mind, is this business of taking pictures during court proceedings. I couldn't imagine anything cheaper, more maudlin and more detrimental to maintaining the dignity that should accompany our court proceedings than this way of carrying on. It is perfectly disgraceful the way photographers rush up here and there and then the yellow newspapers howling if it is forbidden and appeal to the liberty of the press and all that rot. The trouble is with the papers, that they want to try the cases in the papers instead of them being tried in the court. If there is one thing that one would find fault with Mr. Belcher's splendid address, is that it was too mild; but being a gentleman he could not and would not do otherwise."

Mr. Lionel Davis, attorney of Fayette, Mo., writes:

"I have received your folder relating to the taking of pictures during court proceedings and want to assure you I am very glad to have the BULLETIN, and also feel that your association is completely right in its attitude. The experience of the English-speaking people has taught them that certain rules must govern the selection of juries and their functions. We cannot have a fair trial if the jury is to be subjected to influence from the public. Trying a case in the newspapers sometimes brings some publicity to an attorney, but it shatters any certainty of the administration of justice and leaves the determination of the cause to the whim and caprice of the public, unaided by the guiding hand of a court or the direction of informed counsel."

Mr. Harry C. Hedberg, Los Angeles attorney, writes:

"Permit this humble member of our profession to say that your message to the Bar in answer to editorial attacks is so clear, concise and so free from bias and prejudice that I earnestly trust it can be placed in the hands of every practicing lawyer in the United States. Surely the American Bar Association could perform no greater public function than to make certain this is accomplished."

Mr. L. V. Beaulieu, also Los Angeles attorney, writes President Belcher in part as follows:

"I just read your article in BAR BULLETIN with reference to the taking of photographs in courtrooms. I congratulate you on the article. I cannot imagine any lawyer feeling differently than you do about that matter. The article should be published in the papers in which criticisms were published. To me a court is the highest and most sacred tribunal ever created by man and to debauch it by turning it over to the rabble, which this would almost amount to, to be run by its dictates, would be sacriligious. Litigants themselves, as a rule, do not want to have their private affairs in the newspapers. We know, of course, that the greatest crimes in history have been committed under the guise of liberty and we also know that many good names have been ruined by the press exercising its prerogative of 'publishing the news.'"

Mr. Arthur W. Brouillet, San Francisco attorney, writes Mr. Belcher:

"One of the members of your Bar recently gave me a copy of the excerpts from the Los Angeles BAR BULLETIN of last month, and I have read your statement relative to the controversy with the newspapers with a great deal of interest. Needless to say that I am with you 100%. One of the most disgusting spectacles that I know of in the administration of justice is to see a lot of cameras and tripods planted around a courtroom during a trial."

Mr. John H. Hunt, Secretary of the Topeka, Kan., Bar. Association, writes:

"Upon my return from Cleveland I was pleased to find the excerpt from the Los Angeles BAR BULLETIN containing your article with which you have been forced to answer."

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reference to the taking of pictures. I heartily agree with all the statements made in that paper, and am somewhat amazed at the silly claims

President George E. O'Toole, of the Worcester, Mass., Bar Association, writes to President Belcher as follows:

"I have just finished reading the pamphlet concerning the attack by the newspapers of your city on your local Bar Association, which Association was courageous enough to go on record advocating the maintenance of dignity, decorum and decency in the court room. It is difficult for those of us who are trying to keep the practice of the law and judicial procedure on a high plane, to understand the logic of these attacks. Any reasonable person can understand that when an endeavor is made to prevent a judicial proceeding from becoming a farce or a circus (or becoming disorderly as such do become when there is picture-taking and broadcasting), then the matter of free speech and free press for which every good lawyer is bound to battle is not involved.

"To base an attack on the Bar on the ground that the members seek to suppress freedom of speech and press is not only illogical but it is unfair and stupid, and decent citizens all over should resent such unfair tactics.

"It is true that citizens have a right to know what is taking place in a court room, but it is just as true that there are ways of conveying these happenings to the public without causing the court to lose its dignity. Let the public be properly informed, but not at the expense of a dignified court procedure.

"You may be sure that the great majority of your brothers at the Bar and on the Bench commend the action of your organization in endeavoring to maintain high standards in and out of the court room."

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CONTEMPT OF COURT

IN connection with the recent controversy between the Bar and the Press, the following excerpt from *United States vs. Holmes*, 26 Fed. Cas. p. 360, at page 363, being case number 15383 (1 Wall. Jr. 1) may be of interest:

" . . . The case was replete with incidents of deep romance, and of pathetic interest. These, not being connected with the law of the case, of course do not appear in this report; but they had become known in a general way, to the public, before the trial; and on the day assigned for the trial, at the opening of the court, several stenographers connected with the newspaper press appeared within the bar, ready to report the evidence for their expectant readers.

"Baldwin, Circuit Justice, on taking his seat, now said: 'By an act of Congress passed some years since, the court has no longer the power to punish, as for contempt, the publication of testimony pending a trial before us. We have, however, the power to regulate the admissions of persons and the character of proceedings within our own bar; and, as the court perceives several persons apparently connected with the daily press, whose object, we presume, is to report the proceedings and evidence in this case, as it advances, the court takes occasion to state that no person will be allowed to come within the bar of the court for the purpose of reporting, except on condition of suspending all publication till after the trial is concluded. On compliance with this condition, and not otherwise, the court will direct that a convenient place be afforded to the reporters of the press.'

"The reporters expressed their acquiescence in this order of the court, and the most respectful silence, on the part of the press, prevailed during the whole trial."

The footnotes summarized the act of Congress mentioned in the foregoing quotation as follows:

"Act March 2, 1831 (4 Story's Laws U. S. 2256), by which it is enacted 'that the power of the several courts of the United States to issue attachments and inflict summary punishments for contempt of court, shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts, in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree or command of the said courts.' "

ROBERT SCHWARZ.

CHANGE IN CORPORATION LAWS RECOMMENDED BY BAR COMMITTEE

THE Committee on Corporations of the Los Angeles Bar Association, consisting of Paul R. Watkins, Leo S. Chandler, Frederick W. Williamson, Graham L. Sterling, Jr., Guy Knupp, Martin Gang, Joseph P. Loeb, and Homer D. Crotty, chairman, has made its report to the trustees, which recommends a number of important changes in the present corporation law. The report in part follows:

First. Voting and Right of Inspection by Obligation Holders. Under the laws of many of the states the bondholders and debenture holders and other obligation holders are given certain rights to vote and to inspect the records of the corporation while such obligations are outstanding. This right is not accorded to such holders at the present time under the existing California Corporation Laws. In many reorganizations it has been found desirable to give to the security holder some measure of control in the affairs of the corporations which are reorganized. Commonly this has been done by establishing either a voting trust to last a definite number of years, or by delivering common stock to the obligation holders, together with obligations in the reorganized company. Under the laws of Delaware the right of voting is given to obligation holders. The Committee recommends that obligation holders be given the right to vote on certain matters which directly affect them, having in mind that this right will be available in reorganizations in addition to the above mentioned privileges which may be worked out for obligation holders.

The Committee believes that the main objective to be attained for obligation holders is the right to vote for the election of directors, and that as to certain other matters their right to vote is rather incidental. Hence, unless the articles specifically provide, such voting rights would not be conferred for dissolution, merger or consolidation, sale of corporate assets, reduction of stated capital, and amendments of the articles of incorporation which do not alter substantially the provisions thereof conferring voting power or other rights pursuant to this section upon the holders of obligations. The section as recommended is as follows:

"Section 320d—Voting and Right of Inspection by Obligation Holders."

The articles of incorporation of any corporation may confer upon the holders of any bonds, debentures or other obligations issued or to be issued by such corporation, whether secured by mortgage or otherwise, or unsecured, any one or more of the following powers and rights: (a) the power to vote on the election of directors, or otherwise in respect of the corporate affairs and management; (b) the right of inspection of books of account, minutes and other corporate records; or (c) any other rights to information concerning the financial condition of the corporation which its shareholders have or may have. The articles of incorporation may fix the extent to which, the conditions under which, and the manner in which, any such power or rights may be exercised, and may impose restrictions or qualifications upon the exercise thereof. Notwithstanding anything to the contrary now or hereafter elsewhere contained in the General Corporation Law, any such power or rights so conferred shall not be diminished, as to bonds, debentures or other obligations then outstanding, except by an amendment of the articles of incorporation approved by the vote or written consent of the holders of a majority in principal amount thereof or such larger percentage as may be specified in the articles of incorporation.

"Unless the articles of incorporation expressly so provide, voting power conferred upon the holders of bonds, debentures or other obliga-

tions, shall not extend to voting upon (a) dissolution, (b) merger or consolidation, (c) sale of the corporate assets, (d) reduction of stated capital, or (e) amendments of the articles of incorporation which do not alter substantially the provisions thereof conferring voting power or other rights pursuant to this section upon the holders of such obligations."

MERGERS

Second. Merger of Holding Corporation and Wholly Owned Subsidiary. The question of merger of parent corporations and wholly owned subsidiaries was discussed. Under the present California law such merger can only be accomplished by having two directors' meetings and two stockholders' meetings, one each of the parent corporation and of the wholly owned subsidiary. It seemed unnecessary to the Committee to require stockholders' action of a wholly owned subsidiary, where its merger with its parent is contemplated, and for that matter it was considered unnecessary to have stockholders' meetings of parent companies in such instances. There are numerous reasons for the elimination of all unnecessary subsidiaries, due principally to the additional taxation which has been forced upon them by state and federal laws. The Committee felt that a section should be adopted permitting the merger of a holding corporation and wholly owned subsidiary by directors' action only, thus simplifying the procedure and making it possible further to eliminate unnecessary subsidiary corporations at lower cost. The general principle of such a provision is contained in Section 59A of the Delaware Corporation Law. The section which the Committee recommends is as follows:

Section 361c—Merger of Holdings Corporation and Wholly Owned Subsidiary; Proceedings for:—Any holding corporation now or hereafter organized under the laws of this state, owning securities which are entitled to exercise all of the voting power on the subject of merger of any subsidiary corporation now or hereafter organized under the laws of this state, or now or hereafter organized under the laws of any other state or government, if the laws of such other state or government under which such subsidiary corporation is formed permit a merger between domestic and foreign corporations, may file in the office of the Secretary of State a certificate of such ownership in its name, signed by its president or vice-president, and its secretary or treasurer, and setting forth a copy of the resolution of its board of directors to merge such subsidiary corporation into such holding corporation, and to assume all of its obligations, and the date of the adoption thereof. A certified copy of said Certificate shall be recorded in the office of the County Clerk of the County in which the principal place of business of the holding corporation is located, and if the subsidiary corporation is also a California corporation and its principal place of business is located in a different county, another certified copy of said Certificate shall be recorded in the office of the County Clerk of such other county. Thereupon, all of the estate, property, rights, privileges and franchises of such subsidiary corporation shall vest in an be held and enjoyed by such holding corporation as fully and entirely and without change or diminution as the same were before held and enjoyed by such subsidiary corporation, and be managed and controlled by such holding corporation, and except as hereinafter in this section provided, in its name, but subject to all liabilities and obligations of such subsidiary corporation and the rights of all creditors thereof. The surplus appearing on the books of the constituent corporations, to the extent to which it is not capitalized by the issue of shares or otherwise, may be entered as surplus of the same character on

the books of the surviving corporation, and may thereafter be dealt with as such. The holding corporation shall not thereby acquire power to engage in any business, or to exercise any right, privilege or franchise, of a kind which it could not lawfully engage in or exercise under the provisions of the law by or pursuant to which such holding corporation is organized. The holding corporation shall be deemed to have assumed all the liabilities and obligations of the subsidiary corporation, and shall be liable in the same manner as though it had itself incurred such liabilities and obligations. The holding corporation may relinquish its corporate name and assume in place thereof the name of the subsidiary corporation, by including a provision to that effect in the Resolution of Merger adopted by the directors and set forth in the Certificate of Ownership, and upon the filing of such Certificate the change of name shall be completed, with the same force and effect and subject to the same conditions and consequences as though such change had been accomplished by proceedings under the appropriate sections of this chapter. Any merger which requires or contemplates any changes other than those herein specifically authorized with respect to the holding corporation, shall be accomplished under the provisions of Section 361 of this Code. The provisions of said Section 361 of this Code shall otherwise not apply to any merger affected under this Section."

REORGANIZATION

Third. Adoption of Federal Bankruptcy Reorganization Plans by Directors' Action Solely. In the Delaware General Corporation Law, Section 77A, and in the Maryland Corporation Law, Section 44½, there are provisions for the adoption of plans of reorganization in proceedings under Section 77B of the National Bankruptcy Act by directors' action merely, provided, of course, that the appropriate number of shareholders has consented to such plan in the pending 77B proceedings and the plan has been confirmed. No doubt the purpose of the section was to eliminate the expense and delay consequent upon a meeting of the shareholders subsequent to the time when the plan was confirmed, after a sufficient number of shareholders had already consented to the plan in the bankruptcy proceedings.

Under the Maryland and Delaware laws, prior to the adoption of these sections, it was necessary to have shareholders' meetings in addition to the shareholders' consents either prior to or after the plan or reorganization had been confirmed. This was felt to be unnecessary since an adequate hearing on the plan is given in court, notice of which must be sent to all shareholders, and their objections, if any, can be heard at the time of the court hearing. Further, if the plan is assented to by the necessary percentage of the shareholders, it was adding merely an additional delay and expense to require a shareholders' meeting without giving any additional protection to the shareholders that they had not previously been accorded by the court hearing and in registering their consents.

In California, however, the situation has been different since amendments to the articles of incorporation may be adopted by the consent of the shareholders, as well as by resolutions adopted at shareholders' meetings. The Committee felt that it was not necessary to have provisions similar to the Delaware Corporation Law, Section 77A, and the Maryland Law, Section 134½, for the reason that if the reorganizers wish to accomplish amendments to the certificates of incorporation at the same time as they were requesting the consents to the reorganization plan, they could attach a consent to the amendment of the articles of incorporation, so that when the necessary percentage of consents to comply not only with the Bankruptcy Act but with the corporation laws has been obtained, the amendment to the articles of incorporation could be filed with the Secretary of State pursuant

to such consent in lieu of a shareholders' meeting. The Committee therefore recommended against the adoption of such provision.

SPECIAL TYPES

Fourth. Provisions Relating to Special Types of Corporations. It has been the belief of the Corporation Committee members that the General Corporation Law of the State of California should apply as far as possible to all types of California corporations, excluding, except for certain necessary provisions banks, building and loan associations, insurance corporations, and the like.

In Part IV of the California Civil Code there are numerous titles relating to special classes of corporations which have been changed from time to time. In the early days of the history of the Corporation Law it was considered necessary to have titles relating specifically to many different classes of corporations. Thus we have titles relating to railroad corporations, street railroad corporations, wagon road corporations, water and canal corporations, homestead corporations, corporations to furnish light for public use, and bridge, ferry, wharf, chute and pier corporations. In making the revisions to the General Corporation Law, the State Bar Committee believed it did not have the authority to go into the various special classes to the extent which it believed such classes required amendments. Consequently in the adoption of the Corporation Law there would appear to be many provisions in conflict with the General Corporation Law; thus, for example, a wagon road corporation is required to create or increase its bonded indebtedness in accordance with Section 359, a section which was repealed in 1931.

It is the Committee's recommendation therefore that a large number of Sections in these titles be repealed to bring the special titled in conformity with the General Corporation Law. The Committee was of the opinion that two types of

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matters were covered by the sections which appear in Titles III to XI inclusive of Part IV, Division First, of the Civil Code. One type of these related to the corporate set-up and powers of the corporation as such, and the other type related to the operations of the particular business. It was felt that insofar as the sections related to the corporate set-up as such that the recommendations of the Committee would be relevant and within the scope of the powers provided for in the by-laws of the Los Angeles Bar Association, but that insofar as the other sections were concerned, no matter how obsolete they are or appear to be, that it was beyond the province of the Committee to recommend amendments to such sections, or their repeal. The Committee's specific recommendations for the repeal of the sections appearing in the above mentioned titles are as follows (the section number and the title of the section only are given) :

Title III. Railroad Corporations.

- Sec. 454. Directors to be elected, when.
- Sec. 455. Additional provisions in assessment and transfer of stock.
- Sec. 456. Corporations may borrow money and issue bonds: Limitation of amount.
- Sec. 457. Convertible bonds.
- Sec. 458. Capital stock to be fixed.
- Sec. 459. Certificate of payment of fixed capital stock.
- Sec. 465a What motive power may be used; authority must be obtained.
- Sec. 466. Map and profile to be filed.
- Sec. 467. May change line of road.
- Sec. 467a Additional main line tracks.
- Sec. 468. Construction of road: Discontinuance of operation.
- Sec. 470. Not to use streets, alleys, or water, in cities, towns, except by a two-third vote of the city or town authorities.
- Sec. 473a Right to lease or use another road in common.
- Sec. 480. Annual report to be verified. Form of report.
- Sec. 494. Sale of property and franchises to another railroad.

(It seemed to the Committee that insofar as railroad corporations are concerned that the powers conferred by the General Law should govern in the specific instances where repeal is recommended. There are certain sections which the Committee feels are covered adequately by the Public Utilities Law and it was therefore no longer necessary in the Civil Code.)

Title V. Wagon-road Corporations.

- Sec. 522. Stock and bonded indebtedness.

Title VI. Bridge, Ferry, Wharf, Chute, and Pier Corporations.

- Sec. 529. Dissolution of corporations.
- Sec. 530. Annual report to supervisors.

Title VII. Telegraph and Telephone Corporations.

- Sec. 540. May dispose of certain rights.

Title IX. Homestead Corporations.

Repeal entire title—Sections 557 and 566 inclusive.

Title XI. Mining Corporations.

- Sec. 586. Transfer agencies.

SECURITIES ACT

Fifth: Amendments to the Corporate Securities Act. The suggestions relative to these amendments for convenience may be divided into four classes. The first of these is an amendment to Section 2 (a) 8 to provide that changes

made in the provisions of outstanding corporate securities, whether bonds or stocks, pursuant to provisions contained in trust indentures relating to modification, or amendments taken according to law in the character of the corporate stocks, consented to by the appropriate number of shareholders, would not be considered a creation of new securities and so requiring a permit. An amendment has been drafted to accomplish this. This would further require an amendment to Section 26, subdivision 12, relating to fees on such applications.

The Attorney General of the State of California has taken the view that a new security is created that requires the issuance of a permit when any change is made in the articles of incorporation of a substantial nature. Thus, for example, if the directors and stockholders amend their articles to create a preferred stock, as well as a common stock, that thereby a new type of common stock has been created which requires a permit. It did not seem to the Committee that public policy should require that a validly issued common stock would thereby become void when such articles of incorporation had been amended, regardless of the fact as to whether or not any preferred stock had been issued. No additional consideration is issued for such common stock and none would be contemplated other than the cancellation of the existing common stock. The Committee felt that the requirement of a permit in such a case for the issuance of a new common stock to replace the previously outstanding common stock is quite unnecessary, and recommends strongly the adoption of this amendment.

Secondly, it has been suggested that Section 2 (a) 10 be amended to eliminate national banks from the definition of "broker," as there would seem no reason of policy to require such an institution to obtain a broker's license.

The third amendment suggested was to eliminate the necessity for a permit for certain non-profit corporations other than those which may be held to be educational, benevolent, fraternal, charitable or reformatory. The question has arisen as to whether under Section 2 (b) 8 certificates of membership in golf clubs, tennis clubs, and other social organizations of a non-profit character are exempt. There would seem no reason, as a matter of public policy, for a limitation on such exemption. The suggested amendment would eliminate this limitation, except insofar as notes, bonds, debentures or other indebtedness of such associations is concerned.

The fourth amendment suggested was to change the language of Section 16 to provide that securities issued without a permit, or not conforming to the permit, should be voidable at the election of the holder at any time within three years after the issuance of such securities. The drastic nature of this section has been whittled somewhat by court interpretations, but although the cases have not permitted the corporations themselves to take advantage of improperly issued securities, nevertheless it has permitted receivers to do so. It may even permit other security holders to take advantage of such improperly issued securities. Here it seemed to the Committee that the only one to be harmed was the innocent holder himself, and that if anyone should have the election to avoid the security it should be such holder rather than other persons. In line with the amendments to the Securities Act of 1933 restricting to three years the rights to recover relating to violations of the National Securities Act, the Committee suggests that the same statute of limitations be inserted with reference to violations of the Corporate Securities Act.

The suggested amendments are as follows (new material italicized):

1. That Section 2 (a) 8 be amended to read as follows:

"8. Sale. 'Sale' or 'Sell' shall include every disposition, or attempt to dispose, of a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any

purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. 'Sale' or 'sell' shall also include a contract of sale, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, subscription or an offer to sell, directly or by an agent, or a circular letter, advertisement or otherwise; provided, that a privilege pertaining to a security giving the holder the privilege to convert such security into another security of the same company shall not be deemed a sale of such other security within the meaning of this definition; and provided further, that the issue or transfer of a right pertaining to a security and entitling the holder of such right to subscribe to another security of the same company shall not be deemed a sale of such security within the meaning of this definition; but the sale of such other security upon the exercise of such right shall be subject to the provisions of this act; and provided further, that any change in the terms or provisions of outstanding securities effected by amendment of the articles of incorporation, trust indenture, agreement or other instrument pursuant to which such securities were originally issued shall not be deemed a sale or issuance of the securities as changed by any such amendment."

2. That Section 2 (a) 10 be amended to read as follows:

"10. Broker. The word 'broker' includes every person or company, other than an agent, who shall, in this State, engage either wholly or in part in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security issued by others (including all securities of the classes listed in paragraphs 1, 2, 3, 4, 5, 6, 7 and 9 of subdivision (b) of this section) or of underwriting any issue of such securities, or of purchasing such securities with the purpose of reselling them, or of offering them for sale to the public. Provided, however, the word broker shall not include the following, or any agent or agency of any of the following: the United States of America or any territory or insular possession thereof; or the District of Columbia, or any State, Territory, county or municipality, or taxing district therein, or any national banking association organized under the laws of the United States of America."

3. That Section 2 (b) 8 be amended to read as follows:

"8. Any security (except notes, bonds, debentures, or other evidences of indebtedness) issued by a company organized () not for pecuniary profit and no part of the earnings of which inures to the benefit of any private stockholder or individual."

4. That Section 16 be amended to read as follows:

Sec. 16. Every security issued by any company, without a permit of the Commissioner authorizing the same then in effect, shall be voidable at the election of the holder at any time within three years after its issuance, and every security issued by a company with the authorization of the Commissioner, but which has been sold or issued in nonconformity with the provisions, if any, contained in the permit authorizing issuance or sale of such security, shall be voidable at the election of the holder at any time within three years after its issuance."

5. That Section 26, subdivision 12, be amended to read as follows:

"12. () No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the

ordinary course of distribution; but the commissioner may fix a reasonable charge for the publications issued under his authority.

"All fees charged and collected under this section shall be paid at least once a week, accompanied by a detailed statement thereof, into the treasury of the State to the credit of a fund to be known as the 'Corporation Commission Fund,' which fund is hereby created."

CONCLUSION

In submitting the foregoing report to the trustees of the Los Angeles Bar Association the Committee invites comment upon its recommendations, and stands ready to do such further work as the trustees may find for it.

LOS ANGELES BAR ASSOCIATION GOLF TOURNAMENT AUGUST 19, 1938

FLOYD SISK, par shooting Deputy City Attorney, again won the first Low Gross prize at the Los Angeles Bar Association Golf Tournament, held at Griffith Park on Friday, August 19th, Hiram E. Casey taking second, followed by B. L. Smith, third.

First Low Net was won by Ed Penprase, Kenneth White taking second and Paul Angelillo winning third.

The Blind Bogey was won by Richard Yeamans with a 73, followed by Courtney Teel second, with a 74, and Robert O'Dell third, with a 78.

The guest prize was won by Gordon White, a guest from Bolivia.

The special event of this Tournament was the Blind Bogey which gives Richard Yeamans a leg on the President Frank B. Belcher's Cup and thus puts a new golfer in the running for the enviable trophy.

The next Tournament will be held at Griffith Park on Friday, September 16th. Further details of this Tournament will appear at a later date.

CALIFORNIA BAR REPRESENTATIVES AT A. B. A. CONVENTION

AN unusually large number of members of the California Bar attended the American Bar Association convention at Cleveland in July. Los Angeles members who have returned report that the convention was probably the best attended in the history of the organization. The programs of the daily sessions included many matters of great interest to the Bar of the entire country.

Following is a list of those who attended the convention from California:

Bartlett, Alfred L., Los Angeles.
Beardsley, Charles A., Oakland
Brenner, J. E., Stanford University
Crump, Guy Richards, Los Angeles
Davis, W. Jefferson, Los Angeles
Garrett, William S., Glendale
Hackley, Roy C., Jr., San Francisco
Helgoe, Calvin L., Los Angeles
Landels, Edward D., San Francisco
Ludwick, Frank M., Los Angeles
Lyon, Leonard S., Los Angeles
McKinney, William M., San Francisco
Matthay, Lowell, Los Angeles

Minard, Claude, San Francisco
Newlin, Gurney E., Los Angeles
Nilsson, Geo. W., Los Angeles
Rowland, Gilford G., Sacramento
Sargent, Aaron M., San Francisco
Schweitzer, Harold W., Los Angeles
Spotts, Ralph H., Los Angeles
Styskal, L. J., Los Angeles
Trowbridge, Delger, San Francisco
Willebrandt, Mabel W., Los Angeles
Wisecarver, R. P., San Francisco
Wood, John Perry, Los Angeles

THOMAS CALDWELL RIDGWAY
RESOLUTION OF
BOARD OF TRUSTEES OF
LOS ANGELES BAR ASSOCIATION

THOMAS CALDWELL RIDGWAY, a member of the Bar of California, answered the final summons on August 11, 1938. His services to this community, the State of California, and his profession were of such outstanding character that it is appropriate that special mention of them should be made in the permanent records of this Association.

Mr. Ridgway was born at Shawneetown, Illinois, October 21, 1878. His early education was obtained in the public schools and at Columbian University, now known as George Washington University, Washington, D. C. He was graduated from the latter institution in 1899 with the degree of LL.B. Immediately following he was admitted to practice in the Territory of Hawaii, where he served as Referee in Bankruptcy and as a District Magistrate. He was admitted to the bar of California in 1905 and continued in active practice in Los Angeles until the date of his death.

In 1910 he was married to Miss Grace Rowley. Three children survive as the issue of this marriage.

Early in his professional life in Los Angeles he became interested in bar association work and active in the California Bar Association. He was its final president. Upon the enactment of the law creating the State Bar of California he was one of the four men appointed by the Governor to organize it and served as its first president in 1928 and 1929. He was also active in the American Bar Association, serving as chairman of the Conference of Delegates and as member of the General Council from California. The Commission, upon its organization recognizing his peculiar capacity for the post, selected him as its chairman, which position he held until his death. He was also active in numerous local movements for the benefit of the community.

In any work he undertook he gave most generously of his time and talents and conscientiously attended to his duties. His ability was of a high order. As chairman of the Code Commission he was required to give a vast amount of his time to the Commission's affairs, nevertheless, he gave it, and the success of the labors of the Commission were in no small measure due to his efforts and constant application to his duties.

He was of a genial disposition and possessed an engaging personality, which made him a justly popular figure in all Bar Association meetings, as a result of which he became one of the best known and best liked members of the Bar of California. His loss is a serious one to the Bar, to the State, and to this community.

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